

LONDON BOROUGH OF BRENT

MEETING OF THE EXECUTIVE
12th November 2003

FROM THE DIRECTOR OF HOUSING SERVICES

NAME OF WARD(S)
ALL

REPORT TITLE: Racial Harassment Policy

Above Below
Confidential Line

For: Approval

1. Summary

This report seeks Members' approval for the Housing Directorate's draft policy on racial harassment for service users in all tenures.

2. Recommendations

Members are asked to:

- 2.1 Agree that the Council's policy on racial harassment in respect of service users in all tenures of housing be that attached at appendix A of this report, subject to minor amendments.
- 2.2 Note that officers will make available to Members regular reports in respect of the operation of the policy.
- 2.3 Agree that the Director of Housing Services undertakes a review of the policy after it has been in operation for 2 years, and reports to Members the findings of that review.

3. Financial Implications

- 3.1 To successfully implement the policy will require a considerable degree of co-ordination and where appropriate the establishment of detailed procedures. At present there are no posts within Housing Services to undertake this role.
- 3.2 As part of the Council's budget making process a specific growth bid £670k will be considered for the appointment of two Hate Crisis Co-ordinators, one to cover Racial Harassment and the other to deal with other Hate Crimes such as domestic violence.

4. Staffing Implications

- 4.1 See Financial Implications.

5. Legal Implications

- 5.1 Although there is no legal requirement to have a racial harassment policy as such, the proposed policy has been designed to help the Council comply with the Race Relations (Amendment) Act 2000 and the Crime & Disorder Act 1998, and respond effectively to the McPherson Inquiry Report.
- 5.2 Once adopted, it will be important that officers apply the policy when addressing issues of racial harassment in respect of all forms of housing tenure in the borough, while at the same time taking care not to fetter the Council's discretion where it exists. Officers must not prejudge the outcome of any investigation.
- 5.3 Brent Housing Partnership is simultaneously developing a racial harassment policy for the housing that it manages on behalf of the Council. That policy will be consistent with the Council's, as required by the management agreement between the 2 organisations.
- 5.4 To the extent that the policy advocates the exchange of information with external organisations or individuals, steps will be taken by officers to ensure that such disclosure is consistent with the Council's legal obligations and responsibilities, including the Data Protection Act 1998.

6. Detail

- 6.1 Last year there were over 600 cases of racial harassment that were reported to the police in Brent. It is generally recognised that there is a problem with under-reporting of racial harassment incidents, as highlighted by the McPherson Inquiry Report. Under-reporting was also commented upon by the Audit Commission in its report following the review of BHP in August of this year. Consequently, officers do not know the true levels of racial harassment that may be occurring in Brent. The proposed policy should help with the recording and monitoring of racial harassment incidents, helping to build an accurate picture and facilitating the effective and appropriate resolution of incidents of racial harassment.
- 6.2 The Crime and Disorder Act 1998 requires local authorities to work with other agencies to develop strategies to reduce crime and disorder. Agencies are required to work together to record and monitor incidents as well as ultimately to resolve them and should include the Police, Housing organisations and Probation Officers.
- 6.3 The McPherson Inquiry Report recommends:

"genuine multi agency partnership and co-operation to combat racism and to bring together all sections of the community". According to the McPherson report this should be taken forward by:
 - Encouraging the reporting of racist incidents and crime. Victims should also be able to report incidents at locations other than police stations, 24 hours a day.
 - Information regarding racist incidents and crimes should be shared and made readily available to all relevant agencies.

- The definition of what is a racist incident, i.e. “any incident which is perceived to be racist by the victim or any other person” should be universally adopted by all relevant agencies. The use of the above definition in an investigation does not prejudge the perpetrator’s intention. After a thorough investigation of an incident it may be clear that the harassment is not racially motivated

6.4 Brent housing services currently do not have a policy or comprehensive procedure to deal with racial harassment. However there is currently a racial harassment case review panel that takes a multi-agency approach to tackling racial harassment on a monthly basis. The policy will further strengthen Brent housing service’s approach to tackling racial harassment and will fit and enhance existing arrangements.

6.5 The procedure will detail and explain the specific role of different component parts of the Housing service and it will also outline how the service will correspond with rest of the Council e.g. One Stop Shop.

6.6 If the proposed policy is adopted Brent Housing Services will take a victim-centred approach i.e. record and investigate an incident from the victim’s perspective and treat the victim with sympathy and *empathy*, as recommended by the McPherson Inquiry Report. Officers will develop procedures and guidance on implementation of the policy to ensure accuracy and fairness throughout and to all involved.

6.7 All officers who will have a responsibility for implementing the policy will be required to:

- Attend training sessions and familiarise themselves with the policy
- Ensure that the policy is implemented thoroughly

6.8 In order to assess the impact and effectiveness of the proposed policy it is intended that Brent Housing Services will provide Members with monthly reports on racial harassment to aid them with the monitoring of the policy, as part of which officers will feedback to Members about the effectiveness of it. In addition, the Director of Housing Services will lead a review of the policy in two years time and report his findings to Members.

6.9 If approved, policy implementation will begin in November 2003.

7. **Background Information**

Office on the Deputy Prime Minister, Housing Research Summary – Tackling Racial Harassment: Code of Practice for Social Landlords (No 148, 2001)

The Stephen Lawrence Inquiry Report (by Sir William McPherson of Cluny).

Any person wishing to inspect the above papers should contact:

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APPENDIX A

Racial Harassment Policy

1.0 *Purpose of policy*

The purpose of the following policy is to describe Brent Housing Services stance on incidents of racial harassment for **service users** in all tenures. The policy is for staff and the public to provide them with guidance on what the Housing Service should do in relation to allegations of Racial Harassment.

Note: It is not in this policy's remit to cover situations arising amongst members of staff on grounds of race. However, the Housing Service will not tolerate racial harassment between or by members of staff. For any member of staff suffering from racial harassment there is support via their Manager (firstly), and also through the Human Resources & Diversity team who have established a confidential harassment advisory scheme whereby staff can report harassment to confidential harassment advisors. Furthermore, staff can also contact the employee relations team for advice and support if they are experiencing racial harassment within the workplace.

2.0 *Policy statement*

Brent Housing Services values racial equality, social justice and absolutely condemns all forms of racial harassment and intimidation. Consequently, racial harassment will be dealt with seriously and as a priority. Brent Housing Services recognises the effects of racial harassment on the victim's quality of life and is totally committed to tackling the problem thoroughly and effectively. Brent Housing Services will make use of the available resources at its disposal to eliminate all forms of racial harassment at its root. Furthermore, it will endeavour to ensure residents are not subjected to racial harassment. Moreover, it will also work towards developing the confidence of all sections of the community. Note: This policy is specifically for Brent Housing Services and is not a Brent Housing Partnership policy, however, BHP have their own Racial Harassment Policy.

3.0 *Relevant Definitions*

There has been much debate regarding definitions within the area of racial harassment, however consensus and clarification has been provided by the MacPherson Inquiry Report, therefore the definition of racial harassment adopted is as follows:

- **Racial harassment** "is an incident or a series of incidents intended or likely to intimidate, offend or harm an individual or group because of their ethnic origin, colour, race, religion or nationality".

Furthermore, definition of a racist incident is also adopted from the report:

- **Racist incident** “A racist incident is any incident that is perceived to be racist by the victim or any other person”.

The use of the above definition in an investigation does not prejudge the perpetrator’s intention. After a thorough investigation of an incident it may be clear that the harassment is not racially motivated, but using a victim-centred definition for report taking and investigation will ensure that assessing any racial motivation is a key factor throughout the investigation process.

The Housing Service has adopted the following related definitions from the MacPherson Inquiry Report:

- **Racism** “Racism in general terms consists of conduct or words or practice which advantage or disadvantage people because of their colour, culture or ethnic origin. In its more subtle form it is as damaging as in its overt form”.
- **Institutional Racism** “Institutional Racism consists of the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudices, ignorance, thoughtlessness, and racist stereotyping which disadvantage Black and Minority Ethnic people”.

Institutional racism warrants a project of its own simply because of the scale of investigation required and is outside the remit of this document. However, it is necessary that there is clear understanding of what is meant by institutional racism for the context of this policy.

4.0 Background information to the Racial Harassment Policy

This policy has been drawn up in response to the MacPherson Inquiry Report, which amongst many other observations highlighted the under reporting of racially motivated incidents. Moreover, this policy attempts to give clear guidelines for Housing Service staff when dealing with racially motivated incidents. The Housing Service has adopted a victim centred approach to tackle cases of racial harassment i.e. policy and procedure will take the perspective of the victim from which investigations of racial harassment incidents will take place. In doing so the Housing Service hopes to support both victims and witnesses of racial harassment.

It is widely accepted that there is major under reporting and under recording of Racial Harassment incidents (as mentioned above). The total number of racial incidents reported to Brent Police fell by 8.2% from 676 in 1999/2000 to 621 in 2000/1 according to the Crime and Audit survey.

Many incidents are not reported and others are not recorded as racially motivated. Many incidents are overtly racially motivated, although there may be equally as many where the motivation is hidden. Victims of racial harassment are predominantly from ethnic minority groups, however, it is not exclusive to ethnic minority groups since racial harassment does also occur amongst the 'indigenous white population' e.g. Irish and English people. Nationally the picture is just as bleak, because there are approximately 110,000 racially motivated incidents a year in the UK and it is estimated that only 10% of these incidents are reported. Research further indicates that victims of racial harassment lack confidence in the agencies responsible for receiving incidents of racial harassment. As a direct consequence of this victims are not reporting incidents.

Racial harassment is not mutual intolerance or anti-social behaviour, but is targeted, intentional and constitutes continuous abuse of power by people who perceive themselves to be superior or stronger than others. This sense of power is unfounded and is simply based on prejudice and stereotypes.

Racial harassment has a devastating effect on an individual and their family's psychological and emotional well being. The psychological and emotional impact on victims can include but not limited to, not being able to sleep at night, stopping their children from playing outside, feeling like a prisoner in their own home, constantly on edge, fearful of physical attacks and depression. Low-level day to day harassment can have an immense effect on the lives of victims. In the other extreme deaths have resulted from racial harassment.

Racial harassment takes place anywhere e.g. shops, schools and on the streets. Arguably, racial harassment in the home is the most unpleasant and destructive because it takes place in an environment that is deemed secure and is a sanctuary for most people.

In light of the above issues this policy has been developed. It is essential that we respond with sensitivity and speed to any report of Racial Harassment and that the various services are co-ordinated to achieve the most effective action. Housing Services have a key role to play in multi-agency working.

5.0 Overall objectives

The overall objectives for Housing Services are;

- The Housing Service is committed to reducing incidents of Racial Harassment
- The Housing Service will take very seriously any allegations of Racial Harassment

There are specific objectives for the victim and the policy and these include the following;

5.1 Victims objectives

Victims of racial harassment have six main expectations of the Housing Service:

- To be believed and taken seriously
- For victims/witnesses to be dealt with sympathetically
- To be supported and advised appropriately
- To be kept informed
- To find an effective solution to stop the racial harassment
- To send out a clear message that the Council will not tolerate Racial Harassment

5.2 Policy Objectives

The main objectives of this policy are to enable:

- Ensure that racist incidents are reported, accurately recorded and monitored, including allegations and those that are found to be racist
- Support victims, their families and any witnesses when racial harassment occurs
- Take appropriate legal action against perpetrators
- Ensure that actual or potential perpetrators of racial harassment are aware of the consequences of their actions
- Encourage victims/witnesses to report incidents
- Take a victim centred approach when dealing with cases of racial harassment
- Prevent further racial harassment
- Encourage a multi-agency approach to casework
- Ensure that staff are fully trained to be able to deal with complaints of racial harassment
- Deal with cases of racial harassment effectively within the given timescale
- Enable the housing department to adopt appropriate procedures to deal with racial harassment suffered by residents

6.0 Implications for Service Units in the Housing Service

There are obviously implications for those services in the Housing Service that serve the public on a daily basis e.g. Housing Resource Centre, Private Housing Information Unit etc. However, those services that do not have daily contact with customers may be prone to racist incidents arising through the course of their work in other not so obvious areas e.g. Housing Strategy - perhaps through one of its partner agency, Housing Finance – through its creditors/debtors. The procedures following this policy will examine more closely where incidents could arise and more importantly how they should be dealt with.

7.0 Legal Compliance

The Housing Service will consider the legal framework, which surrounds Racial Harassment. The following outlines **some** of the legal remedies available to tackle racial harassment.

7.1 The Race Relations Act 1976 and the Race Relations Amendment Act 2000

According to the Race Relations Act 1976, discrimination on “racial grounds”, includes colour, race, and nationality or ethnic or national origins. The 1976 Act renders unlawful racial discrimination and victimisation in certain circumstances. The Race Relations (Amendment) Act 2000 strengthens and extends the scope of the 1976 Act in the following ways:

- Puts a duty local authorities to ensure that their functions are carried out with due regard to the need to eliminate unlawful discrimination, promote racial equality and good relations between ethnic groups.

7.2 The Housing Act 1985 & 1996

The Housing Acts provide a sanction on perpetrators of nuisance and anti-social behaviour in the housing context, whether they are tenants or persons who are, broadly, affecting others lawfully in the area of local authority housing. Racial harassment is not provided for specifically although case law has held that racial harassment is included under the heading of “nuisance and annoyance”. In reliance on the Housing Acts perpetrators of racial harassment who are tenants can be evicted or have an injunction made against them.

Eviction for harassment may be achieved under two different grounds in Schedule 2 of the 1985 Act: Ground 1 covers breaches of the tenancy agreement (see 7.3 below) and Ground 2 is specifically for nuisance or annoyance and/or certain convictions.

Generally speaking, under section 152 of the 1996 Act an injunction can be obtained against a person who has harassed people who are lawfully in the area of local authority housing where that harassment included violence or threats of violence. A power of arrest may be attached to the injunction. Section 153 of the 1996 Act makes it possible for a landlord to have a power of arrest attached to other injunctions, provided the perpetrator is their tenant and is in breach of their tenancy agreement.

7.3 The tenancy agreement

The Council’s tenancy agreement specifically prohibits harassment on grounds of race or ethnicity. If tenants or persons for whom tenants are responsible, perpetrate racial harassment they are in breach of their tenancy agreement. Action for breach of tenancy can lead to eviction (under Ground 1 and/or 2 of Schedule 2 of the 1985 Act as above), or to an injunction requiring compliance with the terms of the agreement.

7.4 Protection from Eviction Act 1997

This Act makes it a criminal offence for a landlord to evict a person unlawfully (which usually means without a court making an order to end the tenancy). This includes racially motivated unlawful eviction. Private tenants who allege that they have been evicted in these circumstances should be referred to the Council's Private Housing Information Unit for advice and assistance. Landlords who unlawfully evict people can face prosecution.

7.5 The Human Rights Act 1998

Under this Act a victim suffering an abuse of one of the human rights will be entitled to complain to a court of law in the UK and seek compensation. Key rights that are significant in the housing context are:

- prohibition of discrimination
- respect for private and family life

7.6 Crime & Disorder Act 1998

Under this Act the Council may apply for an Anti Social Behaviour Order (ASBO) as a means of combating serious incidents of Racial Harassment if the relevant test is satisfied, namely the perpetrator has behaved in a way that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as him or her.

7.7 Acceptable Behaviour Contract

These are often associated with ASBOs but are in fact a separate tool for dealing with anti-social behaviour. An ABC may be useful in cases of racial harassment where the Council can get the perpetrator to admit that he or she should change his or her ways. The contract is not in fact contractually binding as such but it can be used to record an agreement between the council and the perpetrator, and if broken will be useful evidence for any court action.

The above Acts have specific implications for the Council, and Housing Services will comply with them should they become relevant in the course of racial harassment investigations. This is not an exhaustive list and officers should consult with Legal Services if they require specific advice and certainly before taking any legal action.

8.0 *Brent Housing Services approach to tackling Racial Harassment*

The Housing Service will work in partnership with other Council departments, the police and all relevant external agencies to deal with incidents of racial harassment. Additionally, all staff will adopt collective and individual responsibility to handle investigation and reporting of incidents sensitively and in accordance with this policy.

8.1 Responsibility of all officers

All officers must attend training sessions and familiarise themselves with this policy. In addition unit heads must ensure that all staff within their unit are aware of the procedures to investigate and report incidents of racial harassment. When dealing with incidents of racial harassment, officers must be proactive and **NOT** reactive in their approach. The Director of Housing is responsible for identifying departmental lead officers whose responsibility it is to ensure the effective management of casework relating to racial harassment.

8.2 Member's responsibility

The duty imposed by the Race Relations Amendment Act applies to the Council as an organisation, which means that it is important for Members to have a role in implementing this policy. Housing Services will make available to all Members training and information packs on this policy. The Housing Service will provide Members with monthly reports and monitoring data on racial harassment. As part of these reports frontline officers will feedback to Members about the effectiveness of the policy. The Director of Housing will review the policy after 2 years and report the findings to Members. Reports of racial harassment will be given to all Members by ward, to assist them in running surgeries. Finally, Members will be invited to public meetings in areas that are experiencing high levels of racial harassment primarily to reassure residents that the Housing Service is committed to reducing racial harassment within the Borough and to give witnesses the confidence to come forward.

8.3 Third party responsibility

All contractors, including sub-contractors of the Housing Service do have as part of their contract an agreement to avoid racist behaviour. Any breach of that agreement will be investigated and may lead to termination of the contract.

9.0 Housing Associations (Residential Social Landlords) and private landlords

We will prepare and sign a joint protocol with various RSLs in the borough on dealing with racial harassment. This will endorse our joint commitment in dealing with such cases. This protocol will also set out a common framework to work from when dealing with these cases as well as guidelines on information sharing. In addition we will endeavour to develop a similar protocol for private landlords.

10.0 Implementation

10.1 Staffing

Investigating officers will be expected to respond to cases of racial harassment within target times specified in the procedure. This could have some staffing implications, which each unit will need to acknowledge and prioritise casework and staffing levels accordingly.

10.2 Supporting victims and witnesses

The Housing Service will aim to provide adequate practical and emotional support to both victims and witnesses of racial harassment by working closely with relevant agencies to ensure their safety. The Housing Service will arrange access to telephone and or face to face interpreters in the appropriate community language. In addition, the Housing Service welcomes the use of advocates by victims of racial harassment.

The Housing Service will train staff in understanding the victims' perceptions and the support needs of victims, so they can provide a sensitive, responsive and effective service to victims of racial harassment. The Housing Service will also ensure that staff are aware of the implications of the Human Rights Act 1998, when dealing with cases of racial harassment. The Housing Service will also support frontline staff emotionally and practically when dealing with such cases e.g. counselling will be made available to staff.

10.3 Action against perpetrators

The utmost effort will be used in order to identify the perpetrators and appropriate action will be taken as stipulated in the procedure. The course of action will be determined by the investigating officer (in consultation with the victim) after receiving legal advice. Frontline staff will also be trained so that they will be conscious of the potential for criminal action in cases that involve racially aggravated offences, intentional racial harassment and racial hatred.

The Housing Service will work closely with the police and other relevant agencies to collect intelligence and evidence, in pursuing prosecutions for racially aggravated offences.

10.4 Counter Allegations

Where counter allegations occur the Housing Service will identify two appropriate investigating officers (or more depending upon the number of complainants) to investigate the incident on behalf of each of the claimants separately. Once investigation has taken place an evaluation of the situation and an outcome is to be arrived at by the Manager of the unit.

10.5 Prevention and publicity

The Housing Service will widely publicise, in appropriate community languages its policy and procedure.

The Housing Service will also publicise and produce victim support packs to victims in order to increase their confidence to report racial incidents. In addition we will also work with other local agencies to map racist incidents, so as to detect trends and "hot spots" of racist activity.

After careful consideration of the circumstances of each case and where necessary arrangements will be made to improve security, helping to protect vulnerable residents in their homes.

Work will also be carried out with the police and other local agencies on outreach work with schools and youth groups, hence taking a proactive approach. Furthermore, initiatives that foster community spirit (community cohesion) will be encouraged, aiding residents to support each other so as to reduce the risk of harassment.

10.6 Encouraging reporting

The Housing Service will implement the Home Office Code of Practice on the reporting and recording of racist incidents. It will also help develop and participate in local networks of third party reporting centres, using common reporting forms and contributing to a central database of incidents.

The Housing Service has signed up to Brent's information sharing protocol, which was developed and implemented by Brent's Crime and Prevention Strategy Group (CPSG). This protocol deals with the sharing of information between relevant local agencies in relation to incidents and perpetrators. Officers must take care to ensure that any disclosure of information is lawful and should check with Legal Services if there is any doubt.

Targets will also be set to increase the number of incidents reported and local performance indicators will be set for dealing effectively with racial harassment.

Police and community organisations will be involved in training frontline staff in taking reports.

10.7 Working with other agencies

The Housing Service has joined and will actively participate in the local casework multi-agency forum, the Brent Racial Harassment Case Review Panel (BRHCRP) on tackling cases of racial harassment. The Housing Service also participates in Brent's Racial Harassment Partnership (BRHP), which is a multi-agency forum that addresses strategic issues and partnership work on racial harassment. In addition there will be regular collation of reports of racist incidents that will be communicated to the BRHP.

The Housing Service considers it good practice to establish a lead agency when dealing with cases of racial harassment. The role of the lead agency will be to co-ordinate the case, to ensure the BRHCRP is updated regularly with the progress of the case, to ensure that there is no conflicting information and to avoid duplication. The lead agency will also be responsible for ensuring that the victim is consulted at all stages of the case. The Housing Service will also ensure that all staff are aware of local agencies and services that can support victims of racial harassment.

10.8 Re-housing

Applications for a transfer on the grounds of racial harassment will be considered fairly and sympathetically where it is not possible to resolve the problem. While the victim remains in a Council tenancy other housing options will be pursued in collaboration with BHP and the Council's Housing Resource Centre to help present choices to the victim, e.g. temporary accommodation may be used to help the tenant in accommodation for the short term. Non-council tenants would also be considered for temporary accommodation if they are victims of serious racial harassment.

10.9 Customer satisfaction

In order to improve our service to victims of racial harassment we will develop quality assurance methods to assess the satisfaction of victims with our service, endeavouring to take on board their comments and suggestions.

11.0 Monitoring and review of the policy

The Housing Service will establish a system to monitor data of all racial harassment cases. This monitoring will include a system to record incidents from the beginning to the conclusion of the case. This should help identify the need for change and development in both the policy and the procedure. Furthermore, aiding the decision making process when allocating resources. The system should be simple, adaptable and co-ordinated with other agencies, while sufficiently secure to satisfy the Council's obligations of confidentiality. Additionally, a system will also be created for the auditing of racial harassment casework.

The views of service users, staff and external agencies will be sought in the periodic review of the policy and procedures. A mechanism for this process will be devised, therefore on going policy review should be possible. However, the Housing Service will carry out the next major review of the policy in two years time.

In the case of any legislative changes which affect racial harassment, the policy will have to be amended or revised accordingly. Additionally, any Central Government policy changes will also need to be reflected in this document as and when they occur.